

Statement of Qualifications

HELEN E. GOLDING

Helen E. Golding, Vice President in the Regulatory Policy Group has worked for more than twenty years in the field of communications regulation and public policy. In the public sector, she has worked at both state and federal regulatory agencies; she also has extensive private sector experience in the areas of telecommunications law, strategic planning, and regulatory policy. In addition to her telecommunications industry expertise, Ms. Golding has considerable experience in the public policy and law of the energy industry.

Since the passage of the landmark *Telecommunications Act of 1996*, Ms. Golding has directed work at ETI to evaluate the progress of various Bell operating companies (BOCs) toward meeting the standards of Section 271 of the *Act* (which specifies the conditions for BOC re-entry into the in-region, interLATA services market). She also directed work analyzing the propriety of Ameritech's application for authorization by the Illinois and Michigan public utilities commissions to provide local exchange service through the same separate subsidiary that Ameritech would employ (subject to FCC approval) to provide interLATA long distance services. Along with Dr. Selwyn, Ms. Golding co-authored evidence in the Canadian Radio and Telecommunications Commission's investigation into forbearance from regulation of toll services provided by the Stentor companies, Canada's equivalent of the pre-divestiture Bell System.

Recently, Ms. Golding has co-managed ETI's work on behalf of the Utility Consumer Counsel in the Indiana Utility Regulatory Commission's investigation of a new alternative regulation plan for Ameritech Indiana and on behalf of the Office of Consumer Counsel in the Colorado Public Utilities Commission's review of a price regulation scheme proposed by US West. Ms. Golding was heavily involved in ETI's analysis and preparation of testimony on behalf of the Maine Office of Public Advocate in the Maine Public Utilities Commission's investigation of the proposed NYNEX-Bell Atlantic merger. She has also contributed heavily to numerous submissions to the Federal-State Joint Board and FCC in CC Docket 96-45, the Universal Service proceeding and the New Jersey Board of Public Utilities's docket on state universal service funding.

Prior to the passage of the Telecom Act, Ms. Golding managed projects on alternative regulation and competition in the states of Maine and Connecticut. She also had extensive involvement in preparing testimony and comments in the alternative regulation proceedings in Ohio and Massachusetts, in competition dockets in New York, New Jersey, Massachusetts and Hawaii, and in state proceedings focusing on universal service in Florida and Tennessee. Ms. Golding also participated in the preparation of detailed submissions to the FCC in the FCC's LEC Price Cap Review proceeding.

Ms. Golding was Assistant General Counsel of the Massachusetts Department of Public Utilities from November 1988 to September 1992. Ms. Golding managed a staff of hearing officers, who conducted adjudicatory and rulemaking proceedings for all regulated utilities. Her position required case management and policy coordination with the Department's numerous technical divisions (organized by industry sector: telecommunications, electric, gas, water, and

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Immediately prior to joining ETI, Ms. Golding was a member of the Regulatory Practice Group at Rubin and Rudman, a mid-sized Boston law firm, where she specialized in communications, energy, and municipal law, for clients that included communications and cable companies, municipal electric companies, independent power producers, and public authorities.

Prior to becoming Assistant General Counsel at the DPU, Ms. Golding was Regulatory Counsel and Manager of Telecommunications Public Policy for Honeywell Inc., providing legal and strategic planning advice concerning rate and regulatory developments affecting the company as a large user of telecommunications service and as a computer manufacturer. In that position, she also provided counsel on tariff and regulatory matters to the company's alarm and customer premises equipment businesses.

Ms. Golding also worked at the Federal Communications Commission, as a General Attorney in the Common Carrier Bureau, Tariff Division, where she was responsible for tariff review and rulemaking proceedings for domestic and international telecommunications services.

Ms. Golding is a graduate of Boston University School of Law (J.D., 1977) and Bryn Mawr College (A.B. *cum laude*, 1974).

THE "CONNECTICUT EXPERIENCE" WITH TELECOMMUNICATIONS COMPETITION

A Case Study in Getting it Wrong

February 1998



ECONOMICS AND TECHNOLOGY, INC.

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Preface | **THE "CONNECTICUT EXPERIENCE" WITH TELECOMMUNICATIONS COMPETITION**

The dominant incumbent local telephone utility in Connecticut — the Southern New England Telephone Company — is not a "Bell Operating Company" and is thus not subject to sections 271-275 of the *Telecommunications Act of 1996*. Connecticut thus offers a particularly instructive laboratory for evaluating the broader effects of the various regulatory requirements and line-of-business restrictions that have been specifically imposed upon BOCs by the *Act*, and provides considerable insight as to what might occur if such BOC-specific treatments were to be modified or eliminated.

The BOCs have attempted to portray this "Connecticut Experience" as affirmatively demonstrating that elimination of these BOC-specific treatments — in particular, these companies' present exclusion from the interLATA long distance market and the associated "competitive checklist" and other requirements set forth in Section 271 of the *Act* as a prerequisite for such entry — will enhance competition overall and will increase consumer welfare. Confirmation of those claims would require, first, that competitive conditions "on the ground" in Connecticut be significantly superior to those extant elsewhere, and second, that any such superior competitive climate, if actually present, be specifically attributable to the unique regulatory and policy conditions operative in that state.

Economics and Technology, Inc. has been asked by AT&T to undertake a comprehensive study of both of these conditions, to determine whether in fact the development of telecommunications competition in Connecticut is demonstrably ahead of the rest of the nation, and if it is, to identify the sources of such differences and in so doing to test the validity of the BOCs' contentions. The project was conducted under the overall direction of Dr. Lee L. Selwyn, Helen E. Golding, and Susan M. Gately. Contributing to this work were Michael J. De Winter and Douglas S. Williams. The views expressed in this study are those of ETI, and do not necessarily reflect the views of AT&T.

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Executive Summary

THE "CONNECTICUT EXPERIENCE" WITH TELECOMMUNICATIONS COMPETITION

As of the second anniversary of the *Telecommunications Act of 1996*, no Bell Operating Company (BOC) has as yet satisfied the standard established by Section 271 for entry into the in-region, interLATA service business. Rather than accept responsibility for their own intransigence in removing key roadblocks to the development of local competition, the BOCs have now gone on the offensive. As they portray it, would-be competitors, not BOCs, are responsible for the failure of substantive competition to develop. The theory being advanced by the BOCs is that competitive local exchange carriers (CLECs) generally — and the interexchange carriers (IXCs) in particular — are deliberately holding back from competing in residential local service markets as a means of ensuring that regulations continue to block the BOCs from competing for business in the interexchange market.

One recent paper, *Local Exchange Competition Under the 1996 Telecom Act*, prepared by Peter Huber, posits that allowing the BOCs to begin providing interLATA services in combination with their existing local exchange offerings will actually spur competition in both the long distance and the local exchange markets. In an attempt to bolster this theory, Huber and other Bell spokesmen have pointed to the "Connecticut Experience" as evidence that, where the incumbent LEC — the Southern New England Telephone Company (SNET) in this case — is free to offer bundled local and long distance services to its residential and small business customers, the increased competition drives down prices for long distance calling and, as a secondary benefit, incents CLECs to compete more vigorously in providing local exchange service. Focusing specifically upon Connecticut, Huber advances these two claims:

- Due to SNET's unrestricted entry into the interLATA market, competition for the supply of long distance services to Connecticut consumers has increased significantly, and prices being offered in Connecticut for these services are now lower than in other states.
- Because SNET has aggressively pursued long distance customers, CLECs have been forced to make Connecticut a prime target for their own provision of

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competitive local exchange service, with the result that local competition is significantly more advanced in Connecticut than it would otherwise be.

A closer look at the "Connecticut Experience," however, reveals the polar opposite of the rosy picture being painted by Huber. Rather than demonstrating any durable competitive *benefit* arising from the incumbent local phone company's ability to offer long distance services, the "Connecticut Experience" teaches volumes about the dangers of *premature BOC long distance entry* before *local* competition is given a chance to take root.

Connecticut does not provide an appropriate model for achieving effective and sustainable competition throughout the telecommunications industry. This paper demonstrates that SNET's provision of interLATA services has not produced enduring lower rates for any telecommunications service. To the contrary, consumers in Connecticut pay more for telecommunications services than do consumers in many other states, including states where the incumbent local exchange carrier remains barred from providing in-region interLATA services. Moreover, because (unlike the BOCs) SNET is not subject to the Section 271 "competitive checklist" as a prerequisite for long distance entry, the prospects for real competition at the local level are far dimmer here than in territories controlled by the BOCs and subject to the requirements of Section 271.

In particular, with respect to the contention that SNET's entry into the interstate long distance market is responsible for increased competition and lower prices for toll services, this paper demonstrates that:

- SNET's participation as a provider of interLATA services in Connecticut has not produced lower interLATA services rates. SNET, in particular, has offered interLATA rates that are no lower than those offered in Connecticut and elsewhere by other interexchange carriers.
- The various price comparisons and conclusions made and reached by Huber reflect only the pricing in Connecticut of services in the intraLATA toll market, a market that has only recently been opened to competition on an equal access basis. To the extent that any *intraLATA* toll discounts were offered as a response to SNET's success in the *interLATA* market — as opposed to an effort to compete for *intraLATA* toll business — those discounts would reflect no durable competitive benefit for consumers.
- To the contrary, as shown herein, the *intraLATA* toll discounts offered in Connecticut involve necessarily temporary and promotional reductions that would reflect nothing more than the fact that interexchange carriers are precluded by SNET from competing with SNET in the provision of bundles of local and long distance services. As a result, rather than reflecting competitive and sustainable responses to SNET's entry into the *interLATA* market, any toll discounts that

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might be attributable to SNET's interLATA entry could reflect nothing more than the distortions introduced by SNET's continuing monopoly in the provision of local exchange services in Connecticut.

We also examine and dispel the claim that SNET's entry in the long distance market has spurred a level of local competition that surpasses what has occurred in states where the BOC is held back from offering long distance service until it satisfies the Section 271 requirements. Our analysis leads us to conclude that:

- Connecticut, with the nation's highest per capita income and other favorable economic and demographic conditions, is an attractive market for providers of competitive local exchange services that would likely have attracted early entry by CLECs for reasons completely independent of SNET's interLATA toll strategy.
- The Huber report contains no meaningful evidence whatsoever that local exchange competition in Connecticut has advanced more quickly than in states served by BOCs subject to Section 271 restrictions, or that the market for local exchange telecommunications services in Connecticut has, in fact, become competitive.

To the contrary, SNET continues to possess enormous market power in the local market precisely because there is so little local competition. This power is reflected in both the high local exchange services rates that consumers must pay in Connecticut and in SNET's ability to expand its interLATA market share dramatically, notwithstanding that its interLATA prices are no lower than those of other IXC's.

Finally, we examine SNET's responses to attempted entry by competitors into the local exchange market in Connecticut, to test the theory that there is no need to provide a strong and clearly specified incentive to the BOCs to ensure their active cooperation in removing the barriers to entry into the local exchange market, as required by Sections 251 and 252 of the federal Act. We find that, without such incentives, SNET has delayed and introduced endless and unnecessary complexities into the implementation process for local competition in Connecticut. These are just a few examples:

- SNET's development of cost-based rates for various unbundled network elements, wholesale services, and interconnection has dragged on since early 1995, and its efforts to destabilize and prolong this process are still continuing.
- Unable to win an undeserved exemption from the wholesale pricing provisions of the 1996 *Telecommunications Act*, SNET undertook a full-scale corporate restructuring that not only seeks to undercut its obligations under the *Act* but also provides SNET with the opportunity to engage in additional discriminatory behavior against competitors.

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- SNET's delays in providing CLECs with complete and accurate specifications for its operations support systems (OSS); its failure to respond promptly to regulatory requirements that access to its OSS by unaffiliated CLECs be "at parity" with OSS access that is provided to its own "CLEC" affiliate; and its continuing attempts to satisfy OSS testing requirements with unilateral "demonstrations" rather than actual carrier-to-carrier testing under real-world conditions demonstrate how completely unprepared SNET truly is for the competitive environment mandated by federal and state law.
- SNET has already exhibited business practices that cast significant doubt on its intentions to deal with its CLEC affiliate on an arms' length and nondiscriminatory manner.

The experience in Connecticut thus teaches precisely the opposite of the BOCs' contentions: SNET's ability to forge ahead in the long distance market *before it has opened its local markets to competition* has had neither a beneficial nor a benign effect upon the development of local competition in this state. In fact, the "Connecticut experience" with local competition in the wake of unrestricted SNET long distance entry both supports and thoroughly vindicates the painstaking efforts of the FCC, the Department of Justice, and several state public utility commissions to ensure that BOCs fully comply with all elements of the Section 271 checklist and affirmatively demonstrate that their entry into the long distance business is in the public interest, before such entry is authorized.

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1 | THE CONNECTICUT EXPERIENCE

Introduction

As of the second anniversary of the *Telecommunications Act of 1996*, no Bell Operating Company (BOC) has as yet satisfied the standard established by Section 271 for entry into the in-region, interLATA market,¹ and no approvals are expected any time soon.² Rather than working to remove key roadblocks to the development of local competition, the BOCs have now gone on the offensive. As they portray it, would-be competitors, not BOCs, are responsible for the failure of substantive competition to develop. The theory being advanced by the BOCs is that competitive local exchange carriers (CLECs) generally — and the interexchange carriers (IXCs) in particular — have deliberately held back from competing in residential local service markets as a way to ensure that regulations continue to restrain the BOCs from competing for business in the interexchange market.

1. Applications for Section 271 authority have been submitted by Ameritech (Michigan), SBC (Oklahoma) and BellSouth (South Carolina and Louisiana). The three applications that the FCC has acted on to date — Oklahoma, Michigan and South Carolina — have been denied. *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-region, InterLATA Services in Michigan* ("2nd Michigan Application"), CC Docket No. 97-137, *Memorandum Opinion and Order*, FCC 97-298, released August 19, 1997 ("Ameritech Michigan Order"); *Application of SBC Communications Inc. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-region, InterLATA Services in Oklahoma*, CC Docket No. 97-121, *Memorandum Opinion and Order*, FCC 97-228, released June 26, 1997 ("Oklahoma Order"); *Application of BellSouth Corporation, et al., Pursuant to Section 271 of Communications Act of 1934, as amended, to Provide In-region, InterLATA Services in South Carolina* ("South Carolina Application"), CC Docket No. 97-208, *Memorandum Opinion and Order*, FCC 97-418, released December 24, 1997.

2. As this report was going to press, the FCC rejected BellSouth's Application for Section 271 authority in Louisiana. *Application by BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-region, InterLATA Services in Louisiana*, CC Docket No. 97-231, *Memorandum Opinion and Order*, FCC 98-17, released February 4, 1998.

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One recent paper, prepared by Peter W. Huber,³ posits that allowing the BOCs to begin providing interLATA services in combination with their existing local exchange offerings will actually spur competition in both the long distance and the local exchange markets. In an attempt to bolster this theory, Huber and other Bell spokesmen have pointed to the "Connecticut Experience" as evidence that, where the incumbent LEC — The Southern New England Telephone Company (SNET) in this case — is free to offer bundled local and long distance services to its residential and small business customers, the increased competition drives down prices for long distance calling and, as a secondary benefit, incents CLECs to compete more vigorously in providing local exchange service. Focusing specifically upon Connecticut, Huber advances these two claims:

- Due to SNET's unrestricted entry into the interLATA market, competition for the supply of long distance services to Connecticut consumers has increased significantly, and prices being offered in Connecticut for these services are now lower than in other states.
- Because SNET has aggressively pursued long distance customers, CLECs have been forced to make Connecticut a prime target for their own provision of competitive local exchange service, resulting in a significantly more advanced state of local competition in Connecticut than would otherwise exist.

A closer look at the "Connecticut Experience," however, reveals the polar opposite of the rosy picture being painted by Huber. Rather than demonstrating any durable competitive benefit arising from the incumbent local phone company's ability to offer long distance services, the "Connecticut Experience" teaches volumes about the dangers of *premature BOC long distance entry* before *local* competition is given a change to take root.

Connecticut does not serve as an appropriate model for achieving effective and sustainable competition throughout the telecommunications industry. SNET's provision of interLATA services has not produced enduring lower rates for any telecommunications service. To the contrary, consumers in Connecticut pay more for telecommunications services than do consumers in many other states, including states where the incumbent local

3. Peter W. Huber, *Local Exchange Competition Under the 1996 Telecom Act*, November 4, 1997 (hereinafter, "Huber report"). The Huber report is described as having been researched by the Telecom Policy and Analysis Group and funded by SBC Communications, Inc. and BellSouth Corporation. While the ink was still drying on the *Modification of Final Judgment* under which the former Bell System was split up in 1984, Peter Huber prepared a voluminous report for the United States Department of Justice in which he strongly criticized many of the fundamental market structure precepts that formed the basis for the line of business restrictions. See, Huber, Peter W., *The Geodesic Network*, January 1987, at 1.21-1.23, 1.30-1.35. Mr. Huber's unique view of telecommunications markets was based on the assumption of a "geodesic" network architecture that, according to District Court Judge Harold Greene, simply did not exist. *United States v. Western Electric Company, et al.*, 673 F. Supp. 525, 539 (DDC 1987). This earlier Huber report provided a rallying point for Mr. Huber's present clients, the BOCs, to challenge their exclusion from the long distance and other restricted markets.



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exchange carrier remains barred from providing in-region interLATA services. In particular, SNET's participation as a provider of interLATA services in Connecticut has not produced lower interLATA services rates. The various price comparisons and conclusions made and reached by Huber reflect only the pricing in Connecticut of services in the intraLATA toll market, a market that has only recently been opened to competition on an equal access basis. Moreover, to the extent that any *intraLATA* toll discounts were offered as a response to SNET's success in the *interLATA* market, those discounts would be transitory and would reflect no durable, competitive benefit for consumers. Such promotional reductions would demonstrate nothing more than the fact that interexchange carriers are precluded by SNET from competing with SNET in the provision of bundles of local and long distance services.

There is also no substance to Huber's claim that SNET's entry into the long distance market has spurred a level of local competition that surpasses what has occurred in states where the BOC is held back from offering long distance service until it satisfies the Section 271 requirements. In fact, precisely the opposite has transpired: Contrary to the BOCs' assertions, SNET's ability to forge ahead in the long distance market *before it has opened up its local markets to competition* has had neither a beneficial nor a benign effect upon the development of local competition in Connecticut. If anything, the "Connecticut experience" with local competition in the wake of unrestricted SNET long distance entry both supports and thoroughly vindicates the painstaking efforts of the FCC, the Department of Justice, and several state PUCs to ensure that BOCs fully comply with all elements of the Section 271 checklist and demonstrate that their entry is in the public interest before they are allowed into the long distance market.

SNET continues to possess enormous market power in the local market precisely because there is so little local competition. The ILEC's ability to expand its long distance market share dramatically — particularly where its prices are no lower than that of other IXC's — results directly from the lack of local competition.

SNET's unique status as a non-Bell incumbent LEC

The *Modification of Final Judgment* (MFJ)⁴ that broke up the former Bell System imposed various "line of business" restrictions upon the seven Regional Bell Holding Companies (RBHCs) and their Bell Operating Company (BOC) subsidiaries. Among other activities prohibited by the MFJ was BOC entry into the interLATA long distance market. By *excluding the BOCs altogether* from the interLATA market, the MFJ prevented them from extending their local exchange market power into the then potentially competitive long

4. *United States v. American Tel. and Tel. Co.*, 552 F. Supp. 131, (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

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distance business, leaving them indifferent as to which (now nonaffiliated) interexchange carrier furnished service to individual customers. The specific application of the MFJ's structural remedy was one of the most successful antitrust initiatives in US history, achieving its policy goal of producing a competitive long distance market offering prices (net of access charges) that today are substantially below those that predated the 1984 break-up.

At the time of the break-up, the pre-divestiture AT&T was a minority shareholder of The Southern New England Telephone Company (SNET) and another LEC, Cincinnati Bell, Inc.⁵ The definition of Bell Operating Company, under the MFJ, did not include these minority-owned companies. Thus, the MFJ did not require divestiture of either SNET or Cincinnati Bell.⁶ Of more direct importance to the present discussion, the MFJ also did not subject SNET or Cincinnati Bell to any of the line of business restrictions that applied to the majority- or wholly-owned Bell System companies. Similarly, SNET is not subject to section 271-275 of the *Act*. Hence, SNET has never been enjoined from entry into the interLATA long distance market.

Nevertheless, SNET did not actually begin marketing interLATA long distance services to its residential subscribers until approximately 1994, and did not initiate any major marketing thrust until early 1996.⁷ The Company's full-blown entry at that particular time was spurred by the initiation of intrastate intraLATA "equal access" — an event that made real competition for in-state toll service possible. Previously, SNET had shown little interest in pursuing the residential (interLATA) long distance market, despite being permitted to do so for more than a decade. Unlike its IXC competitors, SNET was the only provider capable of offering bundled local and long distance services on a "one stop shopping" basis, and took full advantage of this unique position by creating service packages and discount plans that none of the IXCs could offer.

The fact that SNET has been able to provide in-region interLATA service prior to opening up its local exchange markets to competition pursuant to Section 271 provides an

5. Neither SNET nor Cincinnati Bell were made parties to the MFJ. See *United States v. American Telephone and Telegraph Company, Western Electric Company, Inc., and Bell Telephone Laboratories, Inc.*; *United States of America v. Western Electric Company, Inc., and American Telephone and Telegraph Company*; *United States of America v. American Telephone and Telegraph Company, et al.*, Civil Action Nos. 74-1698, 82-0192, Misc. No. 82-0025 (PI), 552 F. Supp. 131, 228, 232 (Appendix A) (D.D.C. 1982).

6. AT&T voluntarily divested its minority interest in both of these companies shortly after the 1984 implementation of the MFJ. AT&T announced the sale of its SNET holdings in May 1984 (*Telecommunications Reports*, 50:18, May 7, 1984, at 25). Cincinnati Bell announced its plan to repurchase stock owned by AT&T in December 1983 (*Telecommunications Reports*, 49:51/52, December 26, 1983, at 12).

7. Previously, the Company had tiptoed into the long distance market through an affiliate, SONECOR, whose activities were targeted primarily at larger business customers both within and outside of Connecticut.

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instructive demonstration of the possible outcome if the BOCs are permitted into the interLATA market at any level short of full and unambiguous compliance with all of the "competitive checklist's" requirements. The *Telecommunications Act of 1996* replaces the MFJ's structural remedy by precluding the BOCs from entering into long distance until they have opened their local exchange markets to competition. local exchanges they serve become competitive.⁸ This is to be accomplished by actively and affirmatively pursuing regulatory policies that are designed to facilitate competitive entry into the local exchange. If the BOCs confront effective local competition, the theory holds, they will no longer possess market power in the local exchange market that they can leverage in the adjacent long distance market. Implementation of this theory requires that all of the Section 271 checklist elements be unambiguously satisfied as a precondition for long distance entry;⁹ the "Connecticut Experience" demonstrates precisely what can happen if the BOCs are permitted to offer long distance services while still maintaining a stranglehold on local competition.

8. This core provision of the *Telecommunications Act*, passage of which was heralded by the BOCS, was recently declared to be an unconstitutional "bill of attainder." See *SBC Communications v. FCC*, __F.Supp.__ (N.D.Tex. 1997). This decision threatens to further delay the arrival of local exchange competition in BOC regions.

9. In its rejection of Ameritech's Section 271 application, the FCC found that it is the Commission's responsibility to "ensure that, as required by the Act, a BOC has fully complied with the competitive checklist" and cites 47 U.S.C. § 271(d)(3)(A) (requiring, *inter alia*, the Commission to determine that a BOC has "fully implemented" the competitive checklist). *Ameritech Michigan Order*, at para. 10.

2 | COMPETITION, PRICING, AND CONSUMER BENEFIT

SNET's entry into the interLATA market has neither reduced long distance rates for Connecticut consumers nor increased competition for local services in the state.

Huber claims that SNET's entry into the long distance business has accelerated the development of competition in Connecticut and has brought benefits to Connecticut consumers that are being denied to their counterparts in other jurisdictions. However, the factual underpinning of Huber's contention — that local and long distance prices in Connecticut are lower than elsewhere — is demonstrably wrong. We have evaluated the prices for both local and long distance services that are being offered to Connecticut consumers on three separate fronts, and have found that they are either the same as or actually *higher* than those available to consumers in other states. Our analysis examined three *separate* markets: (a) intraLATA toll, (b) interLATA toll, and (c) local service.

- *IntraLATA toll* rates, which cover all intrastate toll calling (Connecticut is a one-LATA state) are *relatively* low when compared with many other jurisdictions, but they are still higher than in some states even where the dominant BOC remains excluded from the long distance business. And inasmuch as SNET had enjoyed absolute legal protection against all 10XXX intraLATA toll competition until as recently as 1993 and had maintained its 1+ intrastate toll dialing advantage until late 1996, the price decreases in this segment were at least in part the result of the belated arrival of intraLATA toll competition, and (contrary to Huber's mistaken belief) were not driven solely by SNET's entry into the *interLATA* market.
- *InterLATA toll* rates available to Connecticut consumers are no lower than those offered elsewhere. SNET's interLATA long distance prices and pricing plans fall squarely in the middle of the range of rates offered by IXCs both within and outside of Connecticut. And *intrastate* interLATA rates in several states in which

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the dominant BOC remains excluded from that market are actually lower than the interstate interLATA rates being offered by SNET to its Connecticut customers.

- *Local exchange service rates* in Connecticut are *higher* than in many other jurisdictions, particularly when viewed in the context of the small local calling areas that are offered by SNET. If competition in the Connecticut local service market is as intense as Huber contends, one would hardly know it from the sustained high level of local rates and small local calling areas that have remained essentially unchanged for many years.

Although the BOCs persist in portraying the US long distance marketplace as highly concentrated and noncompetitive,¹⁰ those fanciful exercises are easily refuted (see discussion, *infra*, and Figure 2). In fact, a key element and goal of the 1996 federal legislation was the development of competition in the *local telecommunications market*; the inclusion of the BOCs as additional *long distance* competitors is to occur only *after* explicit *local* competition goals have been met. By obfuscating the distinction between the local and intraLATA market segments, Huber draws the erroneous conclusion that SNET's entry into *interLATA* long distance has somehow advanced *local* competition as well.¹¹ In reality, the growth in intrastate competition in Connecticut has come almost exclusively in the intraLATA toll market, primarily since the advent of equal access, and is the result of entry by IXC's into SNET's traditional toll market, rather than the other way around. Moreover, because SNET has succeeded in preventing competitors like AT&T from effectively competing in the local exchange market and has thus precluded their ability to compete with SNET in the provision of *bundled* local and long distance services, the intraLATA toll market offered these competitors an opportunity to respond via temporary, promotional reductions in intraLATA toll service rates. As to local services, despite the intense competition that Huber imagines as having "enriched Connecticut residential consumers by an estimated \$40 million a year,"¹² SNET has actually made no improvement in its local service prices, and Connecticut local service customers continue to

10. See, e.g., Paul W. MacAvoy, *The Failure of Antitrust and Regulation to Establish Competition in Long-Distance Telephone Service*, The AEI Press and MIT Press, 1996; *Affidavit of Paul W. MacAvoy on Behalf of Ameritech Michigan*, 1st Michigan Application (FCC Docket No. 97-137, filed January 2, 1997, application dismissed without prejudice February 12, 1997), Vol. 3.4; *Statement of William E. Taylor, Ph.D.*, in Support of Bell Atlantic — Maryland 271 Application, Filed with the Maryland PSC, March 14, 1997; *Affidavit of Jerry A. Hausman*, South Carolina Application (FCC Docket No. 97-208) Appendix A, Tab 5, September 30, 1997.

11. According to Huber, "Connecticut was one of the first states targeted by major carriers for local competition." Huber report, at 44. His explanation: Connecticut "is the only state in the continental United States whose main phone company - Southern New England Telephone (SNET) - is permitted to offer complete bundles of service to residential customers." *Id.*, at 45-46. Footnotes omitted.

12. *Id.*, at 50.

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pay higher rates, covering smaller local calling areas, than consumers in many other parts of the country.

In sum, SNET's bundled local/long distance service package is no less expensive to consumers than when these services are purchased separately. In view of SNET's success in attracting customers for these packages, however, it would appear that consumers place considerable value in "one-stop shopping" even where there is no actual dollar savings involved. In order to counter SNET's monopoly provision of bundled services, competing long distance carriers who cannot provide bundled local/long distance services, must, unlike SNET, sacrifice revenues through actual price concessions. As we have noted, intraLATA promotional prices in the 5 cents-per-minute range are not sustainable as long as SNET's monopoly access services are also priced at this same level, and as such any claimed "consumer benefit" arising from SNET's provision of bundled services is illusory.

IntraLATA toll

In his portrayal of the long distance market in Connecticut as somehow different from the rest of the country as a consequence of SNET's involvement, Huber conveniently mingles the *interLATA* toll market (the segment of the long distance business from which BOCs are excluded) with the *intraLATA* market, a segment in which BOCs currently produce some \$7.1-billion in annual revenues.¹³ By failing to examine and analyze these two distinct market segments separately, Huber misattributes what he claims to be lower *average* toll rates (for *interLATA* and *intraLATA* combined) that are available to Connecticut consumers to what he characterizes as the increased level of *interLATA* competition engendered by SNET's entry. As it happens, only the *intraLATA* market has actually become more competitive in Connecticut since 1996.

Connecticut's intrastate toll market was one of the last in the nation to be opened to competition. Until 1993, competing carriers were severely restricted in their ability to provide intrastate toll,¹⁴ effectively limiting the availability of competing intrastate toll

13. FCC, *Statistics of Communications Common Carriers*, 1996, Table 2.9. Sum of lines 159 and 162, column 2.

14. Between 1989 and mid-1993, any meaningful competitive options for in-state calling were essentially restricted to large business customers who subscribed to high-volume services under interstate tariffs. "Pure resale" was opened to competition by the DPUC in 1989, but providers had to purchase SNET's toll services (at retail) to resell, and were not even permitted to offer "10XXX" access to their customers. Private line competition was also allowed at this time. DPUC Docket No. 87-08-24, *Re Competition for Intrastate Interexchange Services*, March 15, 1989. The change in policy that allowed competitors to serve the residential customers and small-to-mid-sized business users came about as a result of legislation passed in 1993 (Public Act 93-330) and a 1993 DPUC decision. See, DPUC Docket No. 91-10-06, *DPUC Review of Telecommunications Policies: Infrastructure Modernization*, (continued...)

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services to the largest business customers whose volume of traffic was sufficient to justify a dedicated access connection to their interexchange carrier. Even when intrastate (intra-LATA) toll competition was allowed on a 10XXX basis in 1993, SNET retained its exclusive 1+ dialing advantage on all intrastate calls until December of 1996.¹⁵

Concurrent with the introduction of 10XXX competition in 1993, SNET made large reductions in intrastate toll rates applicable to its small and medium-sized business customers, many of whom would have been able to program their PBXs to automatically generate their interLATA IXC's 10XXX access code (see Figure 1). However, 10XXX competition is of minimal consequence to the *residential* market, and SNET made only minor adjustments to its residential toll rates in 1993. The Company effectively maintained its pre-competition toll rate levels with little change until 1996, when 1+ "equal access" for intrastate calling finally became available to competing IXCs. The rates in effect today are comparable to, and in some cases above, intraLATA toll rate levels in other jurisdictions in which 1+ presubscription to competing intraLATA toll providers is available.¹⁶ Huber refers to an AT&T 5-cent per minute intraLATA toll price, and attributes its existence solely to increased *interLATA* toll competition in Connecticut that he claims resulted from SNET's entry into the long distance market.¹⁷ The conditions that produced this particular AT&T pricing response are far more complex than the overly simplistic explanation advanced by Huber. What he fails to mention is that the 5-cent rate was also offered by

14. (...continued)

Competition, Pricing Principles and Methods of Regulation, Decision, July 7, 1993. Noting this change, the DPUC's July 1993 decision stated:

Currently, telecommunications competition in Connecticut is severely limited to so-called specialized and ancillary services; that is, business services such as 800 service or high-speed data transmission, to which the customer already subscribes on an interstate basis. ... Th[is] Decision authorizes what is known as "10XXX" interexchange competition for intrastate toll service."

Id., at v-vi.

15. By order of the DPUC, SNET was required to complete its implementation of equal access in switches with dual PIC capability (approximately 89.5% of SNET's switches) by no later than December 1, 1996. SNET was permitted an additional year (i.e., until late 1997) to convert its remaining switches. DPUC Docket No. 94-02-07, *SNET Implementation of Intrastate Equal Access and Prescription*, Decision, October 26, 1994; see also, DPUC Docket No. 94-02-07, *SNET Implementation of Intrastate Equal Access and Prescription (Reopening)*, Decision, August 9, 1995.

16. IntraLATA rate comparisons between states with and without 1+ presubscription for competing IXCs are not particularly meaningful, since experience has demonstrated that the ILEC can easily overcome lower competitor prices when rivals are denied dialing parity. Nevertheless, intrastate toll rates in Connecticut, where presubscription is now in effect, are actually higher than rates charged in several other jurisdictions in which the incumbent has remained successful in maintaining this key roadblock to effective competition.

17. Huber report, at 48.

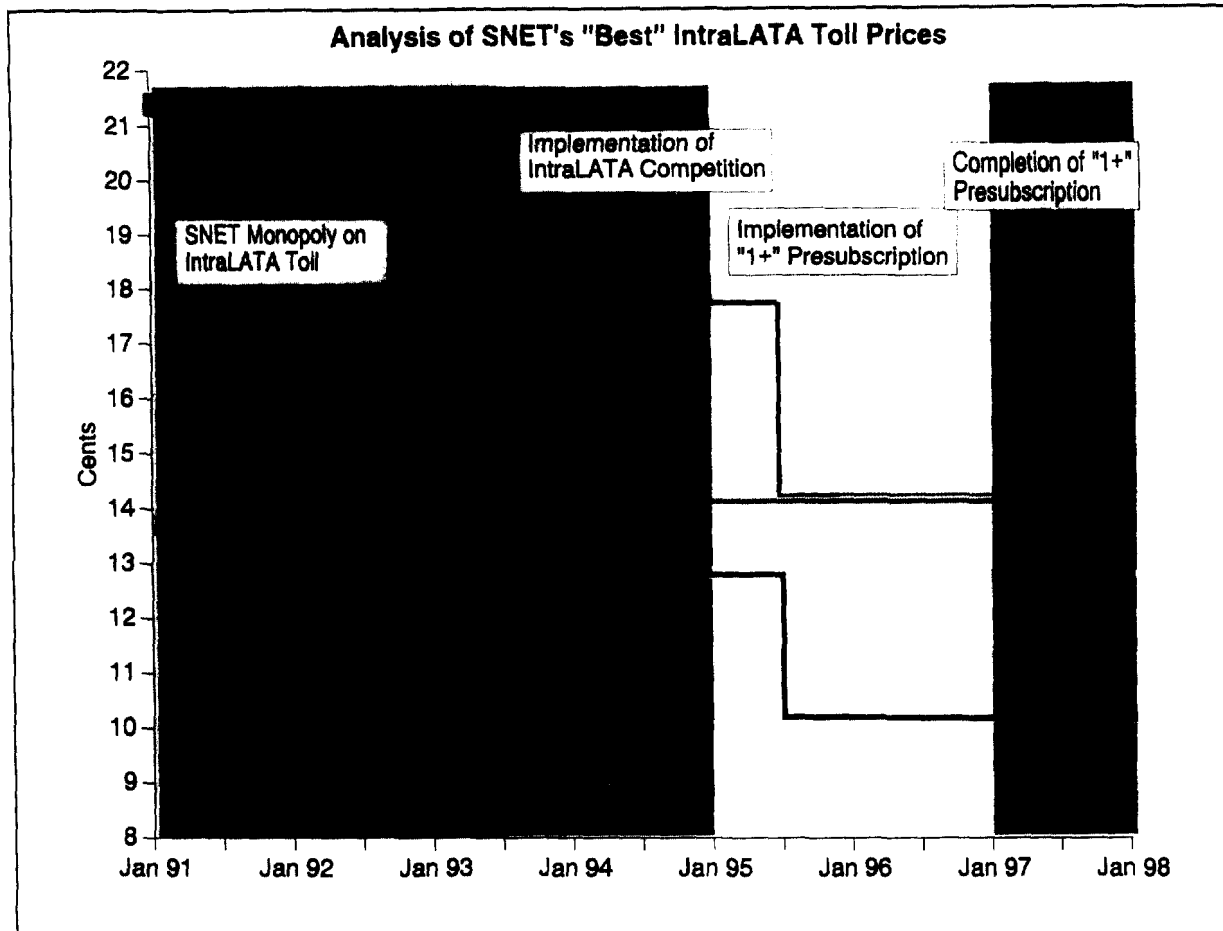


Figure 1. SNET has periodically reduced its "best" IntraLATA toll prices as legal and technical barriers to intraLATA toll competition have been phased out.

AT&T as a special introductory promotional price at the time that 1+ *intraLATA* presubscription first became available to competing IXC's. The promotional *intrastate* (intraLATA) rate was available for a one-year period to customers who subscribed to AT&T service within a limited period beginning in May, 1996.¹⁸

18. AT&T Press Release, "AT&T Offers New Low Prices in Connecticut," May 16, 1996. AT&T specifically linked the new rates to the availability of intrastate equal access:

AT&T has been providing out-of-state long distance service to Connecticut customers for over 100 years. The company began offering in-state long distance in Connecticut in 1993 when the Department of Public Utility Control first opened this market to competition. In-state long distance calls are typically between towns that are 16 to 50 miles apart; such calls incur time and distance charges. Until recently, customers who wished to use AT&T for their in-state long distance calls first had to dial AT&T's access code, 10-ATT (10288) before the telephone number they were calling.

(continued...)

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Promotional pricing as exemplified by AT&T's 5-cent toll rate is representative of pricing initiative that occur during any market ramp-up period in which competitors may be willing to "buy" market share.¹⁹ While Huber fails to mention the connection between AT&T's promotional intrastate rate and the introduction of 1+ presubscription, that linkage is unmistakable. Huber's contention that "heightened competition in long-distance markets alone has enriched Connecticut residential consumers by an estimated \$40 million a year" is based solely upon such introductory, transitional prices, and cannot be extrapolated as a long term condition. Moreover, since (as we demonstrate below) the level of *interLATA* prices being offered to Connecticut consumers is actually no different than in other states, the *entire* "enrichment" of which Huber speaks is a consequence of the growth of *intrastate* competition from IXCs made possible by Public Act 93-330, and the DPUC's policy changes adopted in July 1993. The factors that influence prices are many and complex, and several changes were occurring simultaneously, including both SNET's entry into the *interLATA* market and the implementation of *intraLATA* presubscription in Connecticut. All of these things were occurring during precisely the same time frame for which Huber made his customer "enrichment" estimate. Putting aside the magnitude of any "enrichment," *such consumer benefits clearly cannot be traced solely to SNET's entry into the long distance market.*²⁰

With intrastate equal access in place for more than a year, the gap between the intrastate toll rates charged by SNET and by its IXC competitors has narrowed. As Table 1 demonstrates, as of the end of 1997 the best of the Connecticut *intraLATA* pricing plans offered by AT&T and SNET are quite similar.²¹ Because the structures of the two plans differ, the "optimal" plan for any individual customer could be either AT&T's or SNET's plan - but SNET's "Simple Solutions" plan clearly does not offer price levels that are uniformly lower than those offered by AT&T. In fact, for customers with less than \$25 per

18. (...continued)

Over 70 percent of the consumers in the state can now pre-select AT&T to carry their in-state calls without having to dial any extra digits. For areas where extra digit dialing is still required, AT&T will offer customers enrolled in this plan 30 minutes of free direct dial out-of-state long distance calling each month until their area is converted.

19. The 5 cent price was clearly not sustainable over the long term. SNET's intrastate switched access charges to AT&T for originating and terminating such calls was 5.2 cents per minute at that time, resulting in a *negative* margin to AT&T (after payment of SNET access charges) of 0.2 cents, leaving nothing to cover any of AT&T's own network, billing, marketing and other costs, let alone produce some profit.

20. As we demonstrate below, even the magnitude of such "enrichment" claims is exaggerated, because Huber ignored entirely the fact that SNET's prices for its noncompetitive *local* services are actually *higher* than in many other states.

21. The price comparisons presented in this and subsequent discussions are based upon published tariff rates in effect as of December 1, 1997, and do not reflect time-limited promotional prices that may have been offered by either SNET or other carriers.

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month in intraLATA toll billing, the prices offered by the SNET Simple Solutions and Flat Rate plans will *never* be lower than the AT&T prices, regardless of the mix of peak/off-peak traffic (at AT&T's flat rate 10 cent a minute rate, this equates to more than 4 hours of intraLATA toll calling per month.)²²

Table 1					
Analysis of IntraLATA Toll Prices Available to Residential Customers In Connecticut With Different Usage Levels					
<u>Hours of Use Per Month</u>	<u>Average Call Duration</u>	<u>Time of Day Distribution</u>	<u>SNET PLANS</u>		<u>AT&T Plan Simplified Calling Plan Number 9</u>
			<u>Simple Solutions</u>	<u>Flat Rate</u>	
1	9.2 mins	25/50/25	n/a	\$0.150	\$0.105
1	4.5 mins	80/10/10	n/a	\$0.150	\$0.111
1	15.8 mins	10/50/40	n/a	\$0.150	\$0.103
2	9.2 mins	25/50/25	n/a	\$0.150	\$0.105
2	9.2 mins	80/10/10	n/a	\$0.150	\$0.105
2	9.2 mins	10/50/40	n/a	\$0.150	\$0.105
5	9.2 mins	25/50/25	\$0.108	\$0.150	\$0.105
5	4.5 mins	25/50/25	\$0.108	\$0.150	\$0.111
5	15.8 mins	25/50/25	\$0.108	\$0.150	\$0.103
20	15.8 mins	10/50/40	\$0.092	\$0.150	\$0.103
20	4.5 mins	80/10/10	\$0.139	\$0.150	\$0.111
20	9.2 mins	25/50/25	\$0.102	\$0.150	\$0.105

22. In certain extreme cases, individual customers whose usage patterns are heavily weighted toward very short distances and/or the night/weekend rate period may pay lower average intraLATA toll rates under SNET's or an IXC's "standard" Message Telecommunications Service tariffs than under any of the special pricing "plans."